

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
BATESVILLE DIVISION**

RONALD PARKER, ADC #129702,  
and SAMMIE WARD, III ADC #109434

PLAINTIFFS

V.

1:06CV00056 GH/JTR

CURTIS MEINZER,  
Major, North Central Unit,  
Arkansas Department of Correction, et al.

DEFENDANTS

**ORDER OF DISMISSAL**

Plaintiffs Ronald Parker and Sammie Ward, III, who are currently incarcerated at the North Central Unit of the Arkansas Department of Correction, have commenced this *pro se* § 1983 action. *See* docket entry #2. Pursuant to Local Rule 5.5(c)(2), this case will be dismissed, without prejudice, due to Plaintiffs' failure to timely and properly comply with the Court's November 8, 2006 Order.

**I. Background**

On October 31, 2006, Plaintiffs filed a single § 1983 Complaint alleging that Defendants violated their constitutional rights. *See* docket entry #2. Neither party paid the \$350 filing fee. However, Plaintiff Parker filed an Application to Proceed *In Forma Pauperis*, while Plaintiff Ward did not. *See* docket entry #1.

Accordingly, on November 8, 2006, the Court issued an Order: (1) granting Plaintiff Parker's Application to Proceed *In Forma Pauperis*; (2) assessing an initial partial filing fee from Plaintiff Parker's inmate trust account; and (3) instructing Plaintiff Ward to either pay the balance

of the filing fee, or file an Application to Proceed *In Forma Pauperis*.<sup>1</sup> See docket entry #3. Additionally, the Court ordered Plaintiffs to file separate an Amended Complaints explaining how each of the three Defendants directly and personally participated in the violation of their constitutional rights. *Id.* Importantly, the Court advised Plaintiffs that the failure to timely do so would result in the dismissal of this case, without prejudice, pursuant to Local Rule 5.5(c)(2).<sup>2</sup> *Id.*

### **III. Discussion**

As of the date of this Order, Plaintiffs have failed to comply with the Court's November 8, 2006 Order, and the time for doing so has expired. Instead, Plaintiffs have filed a document purporting to give Plaintiff Ward statutory power of attorney to act on behalf of Plaintiff Parker. The Court does not, at this time, render any ruling on the legality and/or enforceability of that document.

More importantly, that document has no bearing on the Court's November 8, 2006 instructions, because neither Plaintiff has filed an Amended Complaint explaining how each of the three Defendants directly and personally participated in the alleged violation of their constitutional rights. Without this information, the Court cannot complete the screening function mandated by 28 U.S.C. § 1915A. Additionally, neither Plaintiff has paid the balance of the filing fee nor provided

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<sup>1</sup> Additionally, the Clerk sent Plaintiff Ward an Application to Proceed *In Forma Pauperis* and a prison trust fund calculation sheet. See docket entries #3 and #4.

<sup>2</sup> Local Rule 5.5(c)(2) provides that: "It is the duty of any party not represented by counsel to promptly notify the Clerk and the other parties to the proceedings of any change in his or her address, to monitor the progress of the case, and to prosecute or defend the action diligently. A party appearing for himself/herself shall sign his/her pleadings and state his/her address, zip code, and telephone number. If any communication from the Court to a *pro se* plaintiff is not responded to within thirty (30) days, the case may be dismissed without prejudice. Any party proceeding *pro se* shall be expected to be familiar with and follow the Federal Rules of Civil Procedure." (Emphasis added.)

the Court with any financial information reflecting whether Plaintiff Ward is entitled to proceed *in forma pauperis*.

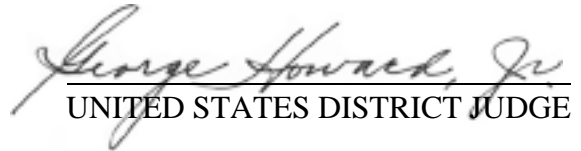
### **III. Conclusion**

IT IS THEREFORE ORDERED THAT:

1. Pursuant to Local Rule 5.5(c)(2), this case is DISMISSED, WITHOUT PREJUDICE, due to Plaintiffs' failure to timely and properly comply with the Court's November 8, 2006 Order.

2. The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an *in forma pauperis* appeal from this Order of Dismissal and the accompanying Judgment would not be taken in good faith.

Dated this 15<sup>th</sup> day of December, 2006.

  
UNITED STATES DISTRICT JUDGE